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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/565,176

01/19/2006

Herbert Vogt

M 5339 HO

9143

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7590

05/12/2009

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EXAMINER

RASHID, MAHBUBUR

ART UNIT

PAPER NUMBER

3657

MAIL DATE

DELIVERY MODE

05/12/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/565,176	Applicant(s) VOGT ET AL.	
	Examiner MAHBUBUR RASHID	Art Unit 3657	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) 2-7 and 11-13 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 8-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 January 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>03/12/2009</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Applicant's election with traverse of Species C (Figs. 7 and 8) in the reply filed on 02/10/2009 is acknowledged. The traversal is on the ground(s) that Species A should be Figs. 2-5 since Fig. 1 is prior art and Species A, D and F are obvious variants of Species C and should be directed to the invention as Species C. This is found persuasive and the Species A, D and F are considered to be directed to the same invention as Species C.

The examiner likes note that claims 1 and 8-10 are readable on the elected Species C according to the applicant.

Information Disclosure Statement

The information disclosure statements (IDS) were submitted on 03/12/2009. Accordingly, the examiner has considered the information disclosure statement, see attached 1449.

Drawings

Figure 1 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the

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applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

Claim 1 is objected to because of the following informalities: “e.g.” in line 3 is not clear. Appropriate correction is required.

Claim 1 is objected to because of the following informalities: “a so-called lantern” in line 2 is not clear. Appropriate correction is required.

Claim 8 is objected to because of the following informalities: “the two shafts” in line 4 is not clear what two shafts the applicant is referring to. Appropriate correction is required.

Claim 9 is objected to because of the following informalities: “an elastically flexible coupling such as a plug-in coupling (41) having an elastic star member (42)” in line 2 is not clear if the applicant is referring to same flexible coupling as disclosed in claim 8 or a different coupling. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 8 and 9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "the assembly" in lines 1 and 5. There is insufficient antecedent basis for this limitation in the claim.

Claim 1 recites the limitation "the input side" in line 4. There is insufficient antecedent basis for this limitation in the claim.

Claim 1 recites the limitation "the output side" in line 4. There is insufficient antecedent basis for this limitation in the claim.

Claim 1 recites the limitation "the power output side" in line 5. There is insufficient antecedent basis for this limitation in the claim.

Claim 1 recites the limitation "the input shaft" in line 7. There is insufficient antecedent basis for this limitation in the claim.

Claim 1 recites the limitation "the output shaft" in line 7. There is insufficient antecedent basis for this limitation in the claim.

Claim 1 recites the limitation "the entire assembly" in line 8. There is insufficient antecedent basis for this limitation in the claim.

Regarding **claim 1**, the phrase "or the like" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "or the like"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

Claim 1 recites the limitation "the shortest possible constructional length" in line 8. There is insufficient antecedent basis for this limitation in the claim.

Claim 8 recites the limitation "the brake center" in line 4. There is insufficient antecedent basis for this limitation in the claim.

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Regarding **claim 9**, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Gustin et al. (US 6,315,088 B1).

Regarding **claim 1**, Gustin discloses coupling/brake combination (figs. 1-13) characterized with

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a so-called lantern (connector member) (24);
a static current-actuated (spring pressure actuated) integrated brake (20);
a central hub (shaft having a hollow shaft section) (50);
an input side or shaft (motor) (54 and 86);
an output side or shaft (gearbox/spindle or like) (50); and
the shortest possible length of the combination system based on the input and
the output shafts (fig. 2).

Re-claim 8, see an elastically flexible coupling (140).

Claims 1, 8 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by
Handke (US 4,488,626).

Regarding **claim 1**, Handke discloses coupling/brake combination (figs. 1-6)
characterized with

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a so-called lantern (connector member) (24 and 28);
a static current-actuated (spring pressure actuated) integrated brake (figs. 1, (10));
a central hub (bellows coupling or plug-in coupling or shaft having a hollow shaft section) (24 and 26);
an input side or shaft (motor) (16);
an output side or shaft (gearbox/spindle or like) (18); and
the shortest possible length of the combination system based on the input and the output shafts (figs. 1 and 6).

Re-claim 8, see an elastically flexible coupling (64, 54, 36a, 50 and 62).

Re-claim 10, see a sealing flange and an annular seal.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Mabee (US 5,172,798).

Regarding **claim 1**, Mabee discloses coupling/brake combination (figs. 1-6) characterized with

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a so-called lantern (connector member) (fig. 1);
a static current-actuated (spring pressure actuated) integrated brake (fig. 1);
a central hub (bellows coupling or plug-in coupling or shaft having a hollow shaft section) (18);
an input side or shaft (motor) (16);
an output side or shaft (gearbox/spindle or like) (40); and
the shortest possible length of the combination system based on the input and the output shafts (figs. 1-6).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mabee (US 5,172,798) in view of Baer (US 3,831,724).

Regarding **claims 8-10**, Mabee discloses all claimed element as set forth above including coupling (figs. 1-6) with spline or teeth (20) to receive rotor (28) of the brake and seal (col. 10, lines 22-35) but fails to explicitly disclose the coupling having an elastic star member. However, Baer discloses clutch and coupling unit (figs. 1-4) having a star member (33). It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the coupling of Mabee with such star member as taught by Baer is an engineering design choice while such coupling unit with a star member can be easily and simply adjusted.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MAHBUBUR RASHID whose telephone number is (571)272-7218. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Siconolfi can be reached on (571) 272-7124. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/M. R./
Examiner, Art Unit 3657

/Robert A. Siconolfi/
Supervisory Patent Examiner, Art
Unit 3657